

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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Manhattan Telecommunications Corp.,
d/b/a Metropolitan Telecommunications,
a/k/a MetTel
44 Wall Street, 6th Floor,
New York, NY 10005

Index No.: 08 Civ 3829
(JSR)

Plaintiff

v.

Global Naps, Inc,

Defendant.

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PLAINTIFF'S STATEMENT OF MATERIAL FACT PURSUANT TO RULE 56.1

1. While Global Naps may be licensed to operate as a Local Exchange carrier, it does not do business as such, insofar as it admits that it does not have end user customers. Global Naps Stat. P. Rule 56.1 at par. 2 and 3.
2. Plaintiff accepts as true that defendant does not have end user customers.
3. Plaintiff disputes Global Naps' legal conclusion that it is not an interexchange carrier regardless of whether it has end user customers. Aronow Aff at Par. 4.
4. Denied. The allegation is a legal conclusion and it should not be in a statement of fact. Aronow Aff at par. 5
5. Without further discovery we cannot determine whether this is true or not.
6. Denied. Plaintiff submitted no evidence in admissible form to support this allegation. Aronow Aff. at Par. 7

7. Denied. Global Naps cite to a Saleman's certification who acknowledges that he has no first hand personal knowledge. Aronow Aff at par 8.

8. Admit that Global Naps hands off traffic in Time Division Multiplexing at the meet point with Verizon or other incumbent Local Exchange Carrier. Deny the balance of the allegation. Aronow Aff. par 9, Scheltema Deposition at 35:15-18.

9. MetTel does not dispute that Global Naps does not bill per minute based on discovery it produced. Deny the conclusion that it is not a long distance or interexchange telecommunications company because it does not charge per minute. On the contrary, Global Naps admits that it transmits call across local exchanges. *Ipsa facto* it is an interexchange carrier. Pl. Memo at page 10.

10. Admit the facts in the paragraph and deny the conclusion therein. Aronow Aff. 11.

11. Global Naps has a contractual relationship by virtue of MetTel's tariffs. Global Naps has allowed traffic to flow to MetTel without taking any steps to prevent such traffic from going to MetTel. Aronow Aff. par 12.

12. Denied. The allegation is not factual. The defendant fails to establish that facts allegedly found in such proceeding have any relevance or bearing in this proceeding. Aronow Aff. Par 13.

13. Denied. Aronow Aff. Par 14.

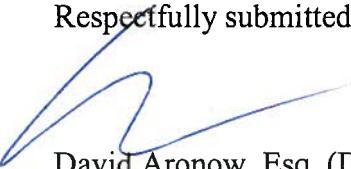
14. Denied. The PSC has stated that it has authority to order Local Exchange Carriers to enter into negotiations for traffic initiated in Internet Protocol. Nothing else. The PSC statements and jurisdiction can be determined by the court as a matter of law. Aronow Aff. Par 15

15. Denied. Mr. Scheltema refused to authenticate the written objection purportedly sent by Global Naps at his deposition. His testimony raises a factual question whether or not the dispute letter was sent. Aronow Aff. 16 Scheltema Deposition page 36.

16. Denied. The allegation is a conclusion and not a fact. Aronow Aff. Par 17.

Dated: New York, New York
August 27, 2008

Respectfully submitted,



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